



FH
[REDACTED]

**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of

[REDACTED]

DECISION
Case #: BCS - 175148

PRELIMINARY RECITALS

On June 22, 2016, the above petitioner filed a hearing request under Wis. Stat. § 49.45(5)(a), to challenge a decision by the Burnett County Department of Social Services regarding Medical Assistance (MA). The hearing was held on July 14, 2016, by telephone.

The issue for determination is whether the petitioner was a resident of Wisconsin anytime between February 1, 2016, and April 30, 2016, and thus eligible for retroactive medical assistance benefits.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

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Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, WI 53703

By: [REDACTED]
Burnett County Department of Social Services
7410 County Road K, #280
Siren, WI 54872

ADMINISTRATIVE LAW JUDGE:
Michael D. O'Brien
Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner (CARES # [REDACTED]) is a resident of Burnett County.

2. The petitioner applied for medical assistance on May 2, 2016, requesting benefits retroactive to February 1, 2016. The department found him eligible as of May 1, 2016.
3. The petitioner lived with his mother in [REDACTED] from February 1, 2016, until he moved back to Wisconsin on May 2, 2016.

DISCUSSION

A person must be a resident of Wisconsin to be eligible for medical assistance here. The department denied the petitioner's request for benefits retroactive to February 1, 2016, because it contends that he did not live in Wisconsin until early May 2016. He contends that he has lived in Wisconsin throughout this period.

Residence is based upon "physical presence" and "the person's intent to maintain Wisconsin residence indefinitely." Wis. Admin. Code § DHS 103.03(3)(b). "Physical presence" means "living in Wisconsin." Wis. Admin. Code § DHS 103.03(3)(a)3. "Intent to reside" means that a person "intends that Wisconsin is the person's place of residence and that the person intends to maintain the residence indefinitely." Wis. Admin. Code § DHS 103.03(3)(a)2. *See also BadgerCare Plus Handbook*, §§3.1 – 3.3.

The background is that the petitioner moved in with his mother while going through a divorce. He applied for medical assistance on April 27, 2016. He indicated on his application and told his worker that he was living in [REDACTED]. That application was denied because he was not a resident of Wisconsin. He reapplied on May 5, 2016, and told the worker that he came back to Wisconsin three days earlier. He was found eligible as of May 2016. At the hearing he contends that the worker misunderstood him. He first testified that he moved back in April. Later, apparently realizing that this would not allow him to receive benefits in February and March, he testified that he had been in Wisconsin the entire time.

I do not find the petitioner credible because his story was constantly changing, and always to his benefit. He has the burden of proving by the preponderance of the credible evidence that he is entitled to medical assistance. The credible evidence is what he put on his application and told his worker before he realized how this would affect his benefits. He has not met this burden. Therefore, the department's denial of retroactive benefits is upheld.

CONCLUSIONS OF LAW

The petitioner is not entitled to retroactive medical assistance benefits because he has not established by the preponderance of the credible evidence that he lived in Wisconsin before he was found eligible for the program.

THEREFORE, it is

ORDERED

The petitioner's appeal is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and

why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, **and** on those identified in this decision as “PARTIES IN INTEREST” **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 22nd day of July, 2016

\s _____
Michael D. O'Brien
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on July 22, 2016.

Burnett County Department of Social Services
Division of Health Care Access and Accountability